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the footrest having heel and toe portions, the toe portion being positioned lower than the heel portion, the shift lever being spaced from the toe portion and the heel portion to permit the rider to insert at least a portion of a foot beneath the shift lever, allowing the rider to move the shift lever upward to shift the manual transmission,

the heel and toe portions being defined by a continuous platform, the platform being arranged so as to prevent a toe of a rider's shoe from extending therethrough

REMARKS

The present communication responds to the Office Action mailed August 23, 2000. In this Office Action, the Examiner rejected claims 1-18 under 35 U.S.C. § 103(a) as being obvious. Applicant respectfully disagrees with the Examiner's rejections and requests reconsideration.

The Examiner rejected claims 1-6, 9-10, 15-16, and 18 under § 103(a) as being unpatentable over Graves in view of Hisada. The Examiner contends that Graves discloses all the features of claims 1-6, 9-10, 15-16, and 18, except for disclosing a footrest with a base made for placement of the toe and heel which the Examiner contends is disclosed by Hisada. Applicant respectfully disagrees with the Examiner's combination of references and requests reconsideration.

Each of the claims in the application requires that the operator be able to position at least a portion of a foot beneath the shift lever. This arrangement permits certain types of manual shift levers to be employed without interference in their operation. Applicant submits that there is no motivation to combine the Graves and Hisada references to produce the claimed invention. In fact, Hisada teaches against the combination that would produce the claimed invention.

Graves discloses a standard foot peg assembly for use with a manual gear shifting lever that, presumably, an operator shifts upward by insert his/her foot beneath the lever. In contrast to Graves, Hisada discloses a brake pedal assembly that an operator actuates downward with his/her foot. With Hisada's brake pedal assembly, there is never a need to insert any part of the operator's foot beneath the brake pedal as it will always be biased away from the depressed braking position. This is standard practice with brakes – they operate only when the rider depresses the pedal. Not only would an operator never need to insert a foot beneath the Hisada brake pedal, Hisada takes steps to prevent this. Hisada includes a special bracket 27k for the sole

purpose of preventing the operator's foot from getting beneath the brake pedal. It seems likely that permitting an operator's foot to slip under there would reduce the safety and efficacy of Hisada's device, prompting Hisada to go through the extra expense and trouble of putting a separate element on the brake pedal specifically to avoid this eventuality.

Each of the claims in the application requires that the operator be able to position at least a portion of a foot beneath the shift lever. This arrangement permits certain types of manual shift levers to be employed without interfering with their operation. If the shift lever has a bracket carried on it that prevented entry of a foot beneath the shift lever (like Hisada's bracket 27k), then this simple, common type of shift lever could not be used very effectively. Accordingly, Hisada teaches away from its use as an assembly for use with a shift lever (Graves).

Only the benefit of hindsight from Applicant's disclosure would suggest the combination of the references in the manner suggested by the Examiner. The examiner has cited references showing two completely different types of systems used with a footrest. One is a brake system, one is a manual shift transmission system. The brake system (Hisada) makes particular effort to prevent the operator's foot from slipping beneath the brake pedal; the manual shift transmission system (Graves) apparently requires that the operator's foot slip beneath the shift lever. There is no hint or suggestion in either of the references that they should be combined in the way contemplated by the Examiner.

Accordingly, Applicant believes the Examiner's rejections of claims 1-6, 9-10, 15-16, and 18 as being obvious over Graves in view of Hisada should be withdrawn for the reasons provided above.

In addition to the reasons noted above, the rejection of at least independent claim 18, as amended, and dependent claims 4 and 5 should be withdrawn for additional reasons. Each of these claims requires that the toe and heel portion define a platform that is arranged so as to prevent the rider's toe from extending therethrough. Neither Graves nor Hisada meet this limitation.

Graves discloses (as shown best in Figures 3A and 3B) a grill assembly 14 with gaps between support members 60 that appear to be large enough to permit a rider's toe to extend through the grill assembly 14.

Hisada discloses (as shown best in Figure 4) a foot board assembly 22a that includes an opening 64 in the bottom wall 63 that is slightly larger than the foot stepping portion 27c.

Assuming that a rider's foot was allowed to enter this area (i.e., that the bracket 27k which prevents the operator's foot from getting beneath the brake pedal was removed), the opening 64 appears large enough to permit the rider's toe to extend through the foot board 22a.

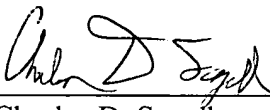
Accordingly, the rejection under §103(a) of claims 4, 5, and 18 based on Graves and Hisada should be withdrawn for this additional reason.

The Examiner rejected claims 7 and 8 under § 103(a) as being unpatentable over Graves in view of Hisada and further in view of Walters et al. The Examiner also rejected claim 17 under § 103(a) as being unpatentable over Graves in view of Hisada, and further in view of Millican. The addition of Walters and/or Millican to Graves and Hisada does not cure the defects highlighted above with respect to the improper combination of Graves and Hisada for claims 1-6, 9-10, 15-16, and 18. Moreover, the addition of Walters and/or Millican to Graves (without the improperly added Hisada reference) would not produce the claimed invention. Walters and Millican both show "flat" footrests. Neither Walters nor Millican shows a footrest with a toe portion positioned lower than a heel portion as recited by each of the pending claims. Accordingly, Applicant submits that the rejection of claims 7, 9, and 17 under §103(a) as being unpatentable over Graves, Hisada, and Walters or Millican should be withdrawn.

In light of the above, Applicant respectfully submits that each of claims 1-18 is in condition for allowance. As these are the only claims pending in the application, prompt issuance of a Notice of Allowance in this case is courteously solicited. If any additional fees are required to enter the present amendment, Applicant hereby authorizes the Office to charge our deposit account, Deposit Account No. 061910. If the Examiner feels that prosecution of the present application can be materially advanced by a telephonic interview, the undersigned would welcome a call at the number listed below.

Respectfully submitted,

Dated: Feb. 23, 2001



Charles D. Segelbaum
Reg. No. 42,138
FREDRIKSON & BYRON, P.A.
1100 International Centre
900 Second Avenue South
Minneapolis, MN 55402-3397
(612) 347-7115

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